

REMARKS

Applicants have amended claims 1, 6, 7-9 and 12 to delete certain embodiments and define the substitution. Support for this amendment can be found on page 18, lines 2-24 of the specification as originally filed. Claims 13-14 have been cancelled. No new matter is added.

Lack of Unity

The Examiner has redefined the Group of inventions as Groups I, IIA, IIB, IIC and III as described in the Office Action. The Examiner has required applicants to elect a single invention to which the claims must be restricted.

Applicants elect Group IIA (claims 1-14, 21-22) without traverse.

Claim Rejections - 35 USC §112

Claims 1-14 and 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner contends that the term "substituted" in claims 1, 6-9, and 12 is vague and indefinite because of the absence of the specific moieties intended to effectuate modification by the "substitution" or attachment to the chemical core.

Applicants have defined the substitution with specific groups as recited in the claims. The attachment to R¹ and R² is also clear from the definitions on page 16-17 of the specification.

Claims 1-14 and 21-22 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for making salts of the claimed compounds, does not reasonably provide enablement for making solvates, hydrates and prodrugs of the claimed compounds.

Claims 1-14 and 21-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement for reciting the phrase "polymorphs".

Solely to advance prosecution and not acquiescing the Examiner's rejection, applicants have deleted the terms "solvates, hydrates, polymorphs and prodrugs", thereby overcoming the rejection.

Claim rejections - 35 U.S.C. §102

Claims 1-2, 5-8, 10-12, 14 and 21-22 are rejected under 35 U.S.C. 102(a) as being anticipated clearly by Watkins et al. (WO 03/082288).

Applicants have amended claims to delete the embodiment where R¹ and R² together with the -CH₂-N-CH₂- group to which they are attached can also represent a nitrogen-containing heterocyclic ring. All of the compounds described in the Office Action have a piperazine ring, therefore, the amendments overcome the rejection.

Applicants respectfully request the Examiner to reconsider and withdraw the above rejections.

If a telephonic communication with the Applicants' representative will advance the prosecution of the instant application, please telephone the representative indicated below. Applicants believe no additional fees are due but the Commissioner is authorized to charge any fees required in connection with this amendment to Merck Deposit Account No. 13-2755.

Respectfully submitted,

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